

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:)
) Case No. 10-93904-BHL-11
EASTERN LIVESTOCK CO., LLC)
)
Debtor.)
)

**SUPPLEMENTAL OBJECTION OF REX ELMORE TO
TRUSTEE'S PURCHASE MONEY CLAIMS REPORT,
MOTION TO TRANSFER FUNDS AND NOTICE
OF RELEASE OF PROCEEDS FROM ACCOUNT**

Rex Elmore ("Elmore"), by counsel, hereby files his Supplemental Objection to the Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from Account, pursuant to this Court's Order of July 1, 2011, and states as follows:

1. On June 17, 2011, Elmore filed an objection to Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from account. Elmore's Objection asserted that the Trustee failed to furnish sufficient information to enable Elmore to identify which funds listed in Exhibit A to the Trustee's Report relate to the cattle Elmore sold to Eastern Livestock. In particular, the Objection asserted that the Trustee's Report did not identify the seller of cattle to Eastern Livestock so that funds paid to the Trustee can be matched with the cattle sold by Elmore to Eastern Livestock. As stated in his Objection, Elmore claims equitable title to the proceeds under a constructive trust theory.

2. On July 1, 2011, this Court entered an Order requiring the Trustee to "amend and file a replacement 'Exhibit A' to the Purchase Money Claims Report to include the following information for each transaction giving rise to Cattle Sales Proceeds . . . to the extent such

information is available to the Trustee: the identity of the seller of the cattle to the Debtor and other material information such as the date of sale, the number, type, and weight of the cattle sold.” *July 1, 2011 First Order Regarding Trustee’s Purchase Money Claims Report, ¶2.*

3. On July 8, 2011, Trustee filed a Notice of Submission of Amended Exhibit A. Trustee also provided the Objectors with a link to a database with some source documents.

4. The Trustee, however, has failed to comply with the Court’s Order. The Amended Exhibit A does not identify the seller of the cattle to Debtor, as required by the Court’s Order. Rather, the Amended Exhibit A identifies the “Cattle Source/Producer State.” The Cattle Source/Producer State in most instances is merely the livestock market where the cattle were sold, and does not identify the sellers of the cattle. So, for example, Elmore sold his cattle to Debtor Eastern Livestock at the Edmonton Livestock Market, and received checks from Eastern Livestock for those cattle sales. Amended Exhibit A groups unidentified sellers in one lump conglomerate of sellers selling through the same livestock market, for example, Edmonton Livestock Market which is listed as “Branch 13 Inventory” or “Edmonton Inventory/KY.” The source documents provide very little further information because the source documents combine the sales of several sellers of cattle through Edmonton Livestock Market, listing, for example, 93 cattle in one sale, or 114 cattle sold in another, with little, if any, identification of the sellers that make up those cattle sales, or the individual weights of each of the cattle included in the sale.

5. Elmore is listed in the source documents provided by the Trustee for the cattle sold by Elmore to Eastern Livestock as part of the Edmonton Livestock “Cattle Source/Producer State” for two of the three checks that were returned as insufficient funds - Check # 016105 and #016135 in the amounts of \$4,010.19 and \$3,914.98, respectively. Therefore, it appears from the

source documents that some of the proceeds held by the Trustee are subject to Elmore's claims as proceeds for cattle sold by Elmore to Eastern Livestock. *See attached Exhibits A and B.*

6. Elmore believes that his claim for Check #016064 in the amount of \$25,728.36 is also included in the groupings of Edmonton Inventory or Branch 13 Inventory listed under "Cattle Source/Producer State" on Amended Exhibit A. However, due to the deficiency of information provided by the Trustee, it is impossible to trace Elmore's sale of cattle to Eastern Livestock through the Edmonton Livestock Market.

WHEREFORE, Elmore respectfully requests that Trustee be required to provide sufficient identification of the sellers of the cattle proceeds held by the Trustee, or in the alternative that Trustee's Motion and all relief requested therein be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2011, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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